

## **I.C.R. 42h. Nonsummary Proceedings -- Defenses to the Contempt.**

Idaho Criminal Rule 42(h). Nonsummary Proceedings -- Defenses to the Contempt.

Defenses to the charge of contempt must be raised as follows:

(1) Written response. In order to assert an affirmative defense to the contempt, the respondent must file and serve a written response stating such defense, including any of the following: the respondent was unable to comply with the court order at the time of the alleged violation (only a defense to a criminal sanction), the respondent lacks the present ability to comply with the court order (only a defense to a civil sanction), the respondent was unaware of the order allegedly violated, the court lacks personal jurisdiction over the respondent, or the court lacked jurisdiction to issue the order allegedly violated. The written response must be filed within seven (7) days after entering a plea denying the contempt charged, unless otherwise ordered by the court.

(2) Burden of proof regarding affirmative defenses. In order to prevent a civil sanction from being imposed, the respondent must prove the affirmative defense by a preponderance of the evidence. In order to prevent a criminal sanction from being imposed, the respondent need only create a reasonable doubt as to whether the respondent is guilty of the contempt.

(Prior Rule 42 RESCINDED; New Rule 42 Adopted March 24, 2005, effective July, 2005.)

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